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Attorneys for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EMMA BAI,

Plaintiff,

v.

TODD M. LYONS, in his official capacity as
Acting Director of United States Immigration
and Customs Enforcement,

Defendant.

Case No.: 4:25-cv-3481-JSW
ORDER GRANTING

**STIPULATION RE: RE-ACTIVATION OF
SEVIS RECORDS AND DISMISSAL;
~~[PROPOSED] ORDER~~**

1 Plaintiff and Defendant hereby stipulate to the following:

2 1. The Student and Exchange Visitor Information System (“SEVIS”) record for Plaintiff in
3 this case has been set back to “active” by the Student and Exchange Visitor Program (“SEVP”) within
4 Homeland Security Investigations (“HSI”) at U.S. Immigration and Customs Enforcement (“ICE”).

5 2. The reactivation of Plaintiff’s SEVIS record shall be considered retroactive to the date of
6 its initial termination, such that there is no gap or lapse in the Plaintiff’s SEVIS record. Although the
7 event history will memorialize whatever modifications are made to the SEVIS account, the effect of this
8 retroactive activation is as though the termination did not happen.

9 3. To the extent Plaintiff is participating in Optional Practical Training (“OPT”), or Science,
10 Technology, Engineering and Math (“STEM”) OPT, or Curricular Practical Training (“CPT”), any
11 authorization end date for OPT, STEM OPT, or CPT has been reset to the end date set forth in the
12 Plaintiff’s SEVIS record before its termination.

13 4. ICE will not, under its new SEVIS policy announced April 26, 2025, re-terminate the
14 Plaintiff’s SEVIS record based solely on the National Crime and Information Center (“NCIC”) record
15 that led to the initial termination or on any related prudential visa revocation that is effective upon
16 departure (as set forth in Paragraph 5). However, ICE maintains the authority to terminate a SEVIS
17 record for other reasons, such as if a student fails to maintain his or her nonimmigrant status after the
18 record is reactivated or engages in other unlawful activity that would render him or her removable from
19 the United States under the Immigration and Nationality Act (“INA”).

20 5. As stated in ICE’s new policy, “if State revokes a nonimmigrant visa effective
21 immediately, SEVP may terminate the nonimmigrant’s SEVIS record based on the visa revocation with
22 immediate effect, as such a revocation can serve as a basis of removability under INA § 237(a)(1)(B).”
23 A visa revocation that is effective upon departure rather than immediately does not establish
24 removability under INA § 237(a)(1)(B), and therefore is not, in itself, a basis for termination of the
25 SEVIS record under the new SEVIS policy.

26 6. Pursuant to INA § 221(i), notice of a visa revocation must be communicated to the
27 Department of Homeland Security. DHS has not received any communication from the Department of
28 State that the visa of the Plaintiffs in this action has been revoked with immediate effect.

7. The termination and reactivation of Plaintiff's SEVIS record by SEVP, as set forth in Paragraph 1 of this Stipulation, will not, in itself, have a negative impact on the adjudication of any benefit request by United States Citizenship and Immigration Services ("USCIS"). If, while adjudicating an immigration benefit request, USCIS finds that an F-1 nonimmigrant's SEVIS record was terminated and then reactivated by ICE, USCIS will continue processing the benefit request according to all applicable laws, regulations, policies, and procedures.

8. To the extent USCIS issues a request for evidence, notice of intent to deny, or denial based in whole or part on the termination and reactivation of Plaintiff's SEVIS record, counsel for Defendant agrees to cooperate with Plaintiff's counsel to ensure USCIS is aware of this Stipulation and its terms in connection with its consideration or reconsideration of Plaintiff's benefits request.

9. Defendants shall communicate this Stipulation to the Department of State. Plaintiff shall dismiss this action with prejudice. Each party shall bear its own fees and costs.

Dated: May 9, 2025

Respectfully submitted,

PATRICK D. ROBBINS
Acting United States Attorney

s/ Elizabeth D Kurlan
ELIZABETH D. KURLAN
Assistant United States Attorney

Attorneys for Defendant

Dated: May 9, 2025


s/ Brad Banias
BRADLEY B. BANIAS
Banias Law

Attorney for Plaintiffs

~~[PROPOSED]~~ ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED. The Clerk shall close this file.

Date: May 9, 2025


JEFFREY S. WHITE
United States District Judge